

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
CENTRAL ISLIP DIVISION**

CARDCONNECT, LLC,	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2:20-cv-01526-SJF-ARL
	)	
LAW OFFICE OF FRANCISCO J.	)	
RODRIGUEZ and FRANCISCO J.	)	
RODRIGUEZ,	)	
	)	
Defendants.	)	
	)	
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LAW OFFICE OF FRANCISCO J.	)	
RODRIGUEZ and FRANCISCO J.	)	
RODRIGUEZ,	)	
	)	
Third-Party Plaintiff	)	
	)	
v.	)	
	)	
ANTONION JUAREZ HERNANDEZ;	)	
NEREYDA VEGA; ROYAL LIBERTY OIL	)	
LEADINGS, LLC; AND ROYAL	)	
INTERNATIONAL INVESTMENT	)	
GROUP, LLC	)	
	)	
Third-Party Defendants	)	
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**PLAINTIFF CARDCONNECT, LLC’S  
SUR REPLY IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT**

Plaintiff CardConnect, LLC (“CCN”) files this Sur Reply only to highlight for the Court that Defendants Law Office of Francisco J. Rodriguez and Francisco J. Rodriguez (collectively “Rodriguez”) *still* do not dispute the only facts necessary to render judgment in CCN’s favor.

On November 20, 2020, Rodriguez filed his response in opposition to CCN’s Motion for Summary Judgment. (*See* Defs./Third-Party Pls.’ Response to Pl.’s Mot. for Summ. J. (ECF No. 28).) In doing so, Rodriguez failed to comply with Local Rule 56.1, which requires a party opposing a motion for summary judgment to “include a correspondingly numbered paragraph responding to each numbered paragraph in the statement of the moving party.” Amazingly,

Rodriguez (a commercial litigator who has been licensed to practice since 1979)<sup>1</sup> claims he cannot be “deemed to understand the consequences of the summary judgment motion” and is entitled to special protections afforded to *pro se* litigants. But, even with the opportunity to correct his mistake, Rodriguez’s Controverting Statement of Facts does nothing to change the outcome CCN’s Motion. (*See* Controverting Statement of Facts (“CSOF”) (ECF No. 35).)

To the contrary, Rodriguez expressly admits all that is necessary for the Court to render judgment in CCN’s favor. Specifically, Rodriguez admits:

- He signed an agreement with CCN (CSOF ¶ 10);
- He submitted transactions pursuant to that agreement (CSOF ¶¶ 15, 28);
- He submitted transactions from a “fraudulent” card (CSOF ¶¶ 17, 30);
- CCN deposited the funds from the transactions to one of Rodriguez’s accounts (CSOF ¶¶ 19, 32);
- CCN informed him that the transactions were not funded and provided Rodriguez documentation of the same (CSOF ¶¶ 22, 35);
- CCN tried to claw back the funds (CSOF ¶¶ 23, 36);
- He placed a debit block on his account (CSOF ¶¶ 24, 37);
- He has not removed the debit block from his account (CSOF ¶¶ 25, 38); and
- He has not returned the funds to CCN. (CSOF ¶¶ 26, 39.)

Likewise, Rodriguez presents no contradicting evidence for a significant portion of CCN’s facts. (*See* CSOF 1-8.) As such, the background facts concerning the payment card industry are not in dispute.

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<sup>1</sup> *Mr. Francisco J. ‘Frank’ Rodriguez*, State Bar of Texas (Sept. 2, 2020), [https://www.texasbar.com/AM/Template.cfm?Section=Find\\_A\\_Lawyer&template=/Customsource/MemberDirectory/MemberDirectoryDetail.cfm&ContactID=184776](https://www.texasbar.com/AM/Template.cfm?Section=Find_A_Lawyer&template=/Customsource/MemberDirectory/MemberDirectoryDetail.cfm&ContactID=184776).

Accordingly, Rodriguez *still* has does nothing to contradict the legal or factual arguments in CCN's Motion for Summary Judgment. The Court, therefore, should grant CCN's Motion for Summary Judgment against Rodriguez.

DATED: December 23, 2020

Respectfully submitted,

POLSINELLI PC

By: /s/ John Peterson

John W. Peterson (#5394200)

401 Commerce Street, Suite 900

Nashville, TN 37219

john.peterson@polsinelli.com

(615) 259-1510

*Attorney for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served via email, on the following counsel of record or registered agent this 23rd day of December, 2020:

Francisco J. Rodriguez  
1111 West Nolana, Suite A  
McAllen, Texas 78504  
[frankr@mcallenlawfirm.com](mailto:frankr@mcallenlawfirm.com)

/s/ John Peterson

John W. Peterson